

# **Labor Agreement**

**Between**

**The Missouri Quality Home Care Council  
and  
The Missouri Home Care Union**

**From January 9, 2015 to July 9, 2017**

AGREEMENT BETWEEN  
THE MISSOURI QUALITY HOME CARE COUNCIL  
AND  
THE MISSOURI HOME CARE UNION

[DATE]

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## **PREAMBLE**

Home is where people want to be.

Missourians with disabilities and those who are aging, who need assistance to remain in their homes and communities, rely on Personal Care Attendants to do so. Many Missouri senior citizens and people with disabilities live independently only as the result of the availability of qualified Personal Care Attendants ("Attendants") who assist them with activities of daily living.

The Missouri Quality Home Care Council ("Council") and the Missouri Home Care Union ("Union") support the ability of aging Missouri citizens and those with disabilities to live independently, in their homes and as part of their communities. Persons employing the Attendants ("Consumers") have the right to choose and supervise who supports them, but choice has less meaning if they are not able to locate, hire and retain competent Attendants.

The Council and the Union are committed to working together in good faith to achieve the goals of the Quality Home Care Act (Sections 208.850 to 208.871, RSMo) including, but not limited to, the goals of: preserving Consumer control and direction, improving the ability of Consumers to recruit and retain Attendants, reducing turnover, achieving reasonable wages and benefits, consistent with the Council's role of recommending Attendant qualifications and changes in Attendant wages and benefits.

This Agreement (hereinafter referred to as the "Agreement") has been made and entered into by and between the Missouri Quality Home Care Council and the Missouri Home Care Union, and its successor in interest (hereinafter referred to as the "Union"). The Union and the Council recognize the unique employment arrangement of Personal Care Attendants and Consumers, and this Agreement shall not in any way diminish the Consumer's control over the hiring, supervision, and termination of Personal Care Attendants.

## **NON-ECONOMIC ARTICLES**

### **UNION RIGHTS**

#### **Union Exclusivity**

The Missouri Quality Home Care Council ("Council"), a public body of the State of Missouri ("State"), recognizes the Missouri Home Care Union (or "Union") as the sole and exclusive bargaining representative for all Personal Care Attendants ("Attendants") performing personal care assistance services in the State of Missouri Personal Care Assistance Services Program, as defined in and provided by "The Quality Home Care Act" (the "Act"), Sections 208.850 to 208.871, RSMo.

The Council or Vendors shall not meet, discuss, confer, subsidize or negotiate with any other employee organization or its representatives on matters pertaining to terms and conditions of employment of Personal Care Attendants performing personal care services that are subject to the Act.

#### **Implementation of Agreement**

The Council shall take all steps it deems necessary and allowed by law to assure all Vendors subject to The Quality Home Care Act comply with the duties and obligations established under this Agreement, as set forth in §208.862.5, RSMo, and that all Vendors comply with the obligations described in Section 208.862.5, RSMo.

The State of Missouri and all Vendors shall cooperate in the implementation of this Agreement reached by the Council and the Union.

#### **Neutrality**

The Council, its managerial and supervisory staff and its agents, if any, shall remain neutral on the question of whether Attendants should join and be represented by the Union. All questions addressed to the Council or Vendors by Attendants concerning membership in or representation by the Union will be referred to the Union. Vendors shall respect the principle of an Attendant's ability to make her or his own choice regarding membership in the Union.

#### **Liability**

The Union and each Attendant authorizing the assignment of pay for the purpose of payment of Union dues hereby agree to undertake to indemnify and hold harmless from all claims, demands, suits or other forms of liability that shall arise against the Council or other parties acting in good faith, for or on account of any deduction made from the pay of such Attendant. This paragraph shall not be interpreted to limit the right of the Union to use any dispute resolution process bargained in this Agreement or successor agreements to collect dues, fees or contributions owed that are provided for in this Agreement.

#### **Reopener**

After the Agreement has been in effect for one (1) year, the Union and the Council each may reopen one (1) article of this Agreement for bargaining. Notice of the Union's or the

Council's intent to reopen bargaining on one article of the Agreement shall be provided in writing to the Chair of the Council or the Union, as applicable.

### **Advocacy Days**

Attendants wishing to participate in Advocacy Days (defined below) may attend such days with their Consumer or request time off from their Consumer to attend on their own. The Consumers retain the sole and exclusive right to grant or not grant such time off. If such time off is granted, the Attendant will notify the applicable Vendor of the date of such Advocacy Day, subject to verification from the Consumer.

Advocacy Days means days designated by the Union for the general purpose of public action and advocacy before the Missouri General Assembly and other governmental bodies to increase funding for home and community-based services. An Attendant's selection to attend such Advocacy Days will be based upon a first-come, first-served basis among Attendants who have advised their Vendor that they desire to attend and who have approved time off from their Consumer.

### **ACCESS TO BARGAINING UNIT**

#### **Presentations at Gatherings of Attendants**

The Union shall be granted thirty (30) minutes for Union business before the start of any Vendor-scheduled training, orientation, in-service, employment meeting, or similar Vendor-sponsored gathering at which three (3) or more Attendants in the bargaining unit are in attendance. Union presentations shall not cause a delay in the scheduled start time of the gathering. The Union shall be notified of all above-described gatherings but shall not make a presentation at more than one event per Vendor in any month for the first twelve months after the effective date of this Agreement, and thereafter the Union shall not make a presentation at more than one event per Vendor in any calendar quarter. The Union will furnish the Vendor at least 7 days in advance of or within one day of being notified of the Vendor-scheduled gathering with a copy of all material sought to be distributed by the Union at the gathering. Such material shall not include derogatory, defamatory, partisan, campaign political, or other material that interrupts the ability of the Vendor to provide services. The Vendor will review the material and may reject proposed Union materials the Vendor finds to be objectionable. If the Vendor rejects material pursuant to this section, the Vendor shall inform the Union in writing of the reasons, such reasons to be delivered to the Union within four (4) days of the date the Union furnished the material to the Vendor. The Union commits to making a good faith effort to make a presentation at gatherings scheduled by the Vendor. Nothing in this section shall in any way diminish, and the Union's presentation shall be consistent with the Consumer's right to control hiring, training, supervision and termination of Personal Care Attendants. This section does not apply to trainings, meetings or events in the Consumer's home.

#### **Union Representatives**

The Council and Vendors shall recognize the role of Union advocates and Union staff representatives in the course of their representational duties. The Union shall advise the

Council of the names and phone numbers of Union advocates and representatives by written notice within thirty (30) days of appointment by the Union and include the nature, scope and authority granted each by the Union.

### **Bulletin Boards**

The Union shall have a right to bulletin board space in the offices of the Council, if any, as well as Vendors' offices, that Attendants necessarily frequent due to work-related business. The Union shall be solely responsible for the costs and maintenance of all bulletin boards. The Union will provide cork bulletin boards. The bulletin boards will be clearly marked as Union bulletin boards and will be maintained by Union worker representatives and/or Union staff. The bulletin boards shall only be used for Union materials and shall be maintained exclusively by the Union.

The Parties agree that the Union, the Council and Vendors (whichever is appropriate) will discuss the location in a facility for the Union bulletin board. The Council shall inform Vendors of the rights of the Union to bulletin board space.

The Union will furnish the Council or the Vendor, as applicable, at least 24 hours in advance with a copy of all literature to be placed on the bulletin board by the Union. Such literature shall not include political campaign literature, and shall not include derogatory, defamatory or partisan material. A Vendor may review the material and may reject literature the Vendor believes is political campaign literature or derogatory, defamatory or partisan in nature.

### **Mailings**

Upon request by the Union, the Council and Vendors will include Union notices in mailings being sent to Attendants. An adequate number of hard copy notices must be provided by the Union in advance of the scheduled mailing. The Union shall reimburse the Council or Vendor for any costs associated with the inclusion of the Union notices, including additional mailing, postage or delivery costs. The Council and Vendors shall provide the Union with copies of any mailing information sent out to Attendants.

Any such material proposed by the Union for mailing by the Council or a Vendor shall be clearly marked on the face of the material as material provided by the Union and not material provided by the Council or Vendor.

The Union will furnish the Council or the Vendor, as applicable, in advance with a copy of all Union notices sought to be included by the Union in mailings to Attendants. Such Union notices shall not include political campaign material, and shall not include derogatory, defamatory, partisan or other material that interrupts Council activities or the ability of the Vendor to provide services. The Council or the Vendor will review the Union notices and may reject mailing of Union notices the Council or Vendor finds to be political campaign material, derogatory, defamatory, partisan or that interrupts Council activities or the ability of the Vendor to provide services. If the Council or the Vendor rejects mailing the Union notices pursuant to this section, the Council or Vendor shall inform the Union in writing delivered to

the Union within five days that the Union furnishes the Union notices to the Council or Vendor the reasons why the Council or Vendor denies mailing the Union notices.

## **Lists**

### **Information to be Provided**

Each Vendor shall provide to the Council information about each Attendant in the bargaining unit and shall provide this information electronically on a quarterly basis in a common, commercially available format and shall include the Attendant's full name, address, phone number, electronic mail address if available and FCSR registry number. The Council shall transmit such information to the Union electronically in a common, commercially available format.

Any other information provided to the Council by the Vendor that is not confidential or otherwise prohibited from disclosure by law will be shared with the Union in the format determined by the Council.

### **Orientation Materials**

When an individual initially becomes an Attendant, the Vendor, shall include, in any packet of information and forms provided to new Attendants, materials prepared by the Union that fit into the Attendant packet concerning Union representation and Union membership. The Union will furnish the Vendor, as applicable, in advance with a copy of all Union material sought to be included by the Union in the packet of information and forms to be sent to the new Attendants. Such material shall not include political campaign literature, and shall not include derogatory, defamatory or partisan material. If the Vendor finds the Union material to be within the prohibited categories, the Vendor shall inform the Union in writing delivered to the Union within four days that the Union furnishes the Union material to the Vendor the reasons why the Vendor finds the Union material to be prohibited and why the Vendor refuses to send the material to the Attendant.

The Union shall reimburse the Vendor for any costs associated with the inclusion and delivery of the Union material, including additional mailing, postage or delivery costs.

## **Access**

Duly authorized representatives of the Union may have reasonable access at reasonable times to a mutually-agreed upon area of the Vendor's premises that are open to the general public in a manner that does not hinder access to those areas by the general public. Access to the Vendors' premises shall be made only after a minimum 72 hours previous notice to the Vendor, in consultation with the Vendor regarding its scheduled events and subject to the same general rules applicable to other persons, and shall not interfere with or disturb the normal operation of the Vendor. Subject to the foregoing right of access, Union advocates and Union representatives shall notify the Vendor's facility or work site head or designee when entering the Vendor's facility or work site, as feasible and appropriate, and shall perform representational activities or other Union business with Attendants only during the non-



working time of the Attendant and shall not otherwise interfere with the work of Attendant or home care services provided.

### **Time Sheet Drop Off**

The Union will be permitted at Vendor's time sheet drop-off locations, if any, to talk to Attendants in a way that does not interfere with the regular business of the Vendor. This permission shall be subject to the same rules of access as described above.

### **Work Supports Support**

The Vendor will, upon request, provide reasonable assistance to Attendants who are experiencing difficulties in their employment relations with Consumers, such as issues regarding Attendant safety or communications issues between the Attendant and the Consumer.

A Vendor shall disclose potential dangers known by the Vendor to be presented by a Consumer before the Attendant begins work or when the Vendor becomes aware of those dangers, unless disclosure of such information is prohibited by law.

### **Personnel Files**

A Vendor shall maintain in secure personnel files Attendant personal identifying information such as bank account or social security numbers. The Vendor shall not provide or disclose such personal information to Consumers, unless authorized in writing by the Attendant or unless provision or disclosure of such information is required by law.

Any records relating to an individual Attendant acquired, prepared or maintained by a Vendor regarding certifications, training, formal evaluations, disciplinary action, or equivalent records pertaining to Attendants shall be placed in an individual personnel file for each Attendant to be maintained by the Vendor. For purposes of this Agreement, Attendants shall be permitted to inspect their file within two business days of providing a written request to the Vendor for access to their file. Attendants may submit written comments regarding items in their own file, but may not remove any information.

### **Benefit Bank and Other Support Services**

The Union may propose to the Council means of providing other support services for Attendants, including help with accessing public assistance, for which Attendants might currently be eligible, including in the areas of housing assistance, transportation, childcare, health care and other available public assistance services. The Union, Council and Vendors will cooperate to make Attendants aware of opportunities they have for such assistance. The Union may also propose establishment of a "benefits bank" model, that would establish a free web-based service to simplify and centralize the process of applying for state and federal benefits for low and moderate-income individuals and families.

The Council may consider any proposal for a benefit bank or other Attendant support proposal from the Union that satisfies any eligibility criteria and application requirements established by the agency that provides the relevant public assistance services.

If implemented by the Union, the Union may make the benefit bank available for Attendants' use at presentations at gatherings of Attendants as provided by this Agreement or another time agreed to between the Union and the Vendor.

### **Employment Verification**

Upon the request of an Attendant, the Vendor shall provide a letter setting forth the type of service rendered by such Attendant while in the employ of the Vendor and the duration and dates thereof.

### **Payroll, Electronic Deposit and Employment**

#### **Section 1. Accurate & Timely Payment**

Attendants are entitled to receive accurate payment for services authorized and rendered. Paychecks shall be issued in a timely manner. It is difficult for Attendants to work without pay; and payroll mistakes and delays threaten the continuity of consumer services and the stability of an Attendant's employment. Attendants should be offered the opportunity to correct inadvertent mistakes in documents prepared by the Attendant supporting payment as soon as the Vendor becomes aware of the mistake, avoiding delays in payment. The Vendor shall strive to present a notice of needed corrections in time to allow for payment during an Attendant's regular payroll cycle.

To promote an accurate payroll system, in event of late, lost or inaccurate paychecks and similar issues the Vendors shall work with the Union to identify causes of and solutions to such issues.

#### **Section 2. Direct Deposit**

Each Attendant shall have the right to have his/her paycheck issued via Direct Deposit if available to the Vendor. It is the responsibility of each Attendant to notify the Vendor of any changes to their account.

### **Bargaining Unit Integrity**

The Council recognizes the integrity of the bargaining unit and will not take action with the purpose to reduce the size or membership of the bargaining unit. No action taken by a Consumer shall be considered adverse to the bargaining unit. A reduction in the number of service hours provided to Consumers shall not be considered erosion of the bargaining unit.

### **Task Lists of Authorized Services for Attendants**

The Consumer shall be responsible to provide a copy of the task list of approved services and maximum authorized hours to the Attendant prior to beginning work. The Consumer shall have primary responsibility to inform an Attendant of a reduction or increase in hours.

Pursuant to program rules, the Consumer retains the right to modify the number of hours of an Attendant at any time.

When a Consumer's plan of care changes, the Consumer shall be primarily responsible for sharing those changes with the Attendant.

An Attendant may request and a Vendor will provide a copy of the task list of approved services and maximum authorized hours if one has not been provided by the Consumer.

A Vendor shall contact a Consumer receiving an amended plan of care within three business days after the effective date of the change, to ensure that the amended plan of care has been shared with the Attendant. If the Consumer does not provide the current plan of care to the Attendant, the Vendor will provide a written copy of the current plan of care, or a summary thereof that shows the tasks and corresponding hours to be worked, which shall be provided to the Attendant within five (5) business days. If the task list is part of a document that contains information to which an Attendant should not have access because it is confidential or otherwise protected by law, the Vendor shall redact all such information before providing the document to the Attendant.

#### **Dues Deduction**

The Vendor shall deduct the amount of voluntary membership dues, as authorized by the Attendant, from each Attendant's payment for services (paycheck or direct deposit). Remittance of dues shall be made monthly, payable to:

Missouri Home Care Union  
and shall be mailed to:  
3230 Emerald Lane, Room 300  
Jefferson City, Missouri 65109

An Attendant who has previously authorized payroll deductions pursuant to this section shall continue to have such deductions made and shall not be required to reauthorize such deductions unless that Attendant has previously withdrawn authorization for such deductions in accordance with the appropriate revocation procedures and now seeks to reauthorize withholding of dues. An Attendant who has previously authorized a Vendor to make payroll deductions shall continue to have such deductions made and shall not be required to reauthorize such deductions unless the Attendant has specifically authorized revocation of deductions or the Attendant has not received pay from the Vendor for a twelve (12) month period of time and the Union fails to provide a copy of a new dues deduction authorization from that Attendant. The dues authorization period in this section may be adjusted to comport with changes in state statute without the necessity of formal amendment of this Agreement.

Vendors shall supply Union deduction cards to Attendants, upon the request of an Attendant. Such cards shall be supplied to Vendors by the Union.

The Union shall advise Vendors of any increase in voluntary membership dues in writing at least thirty (30) days prior to its effective date.

Before there is any payroll deduction for an Attendant, the earnings must be regularly sufficient after other legal and required deductions to cover the amount of the prorated monthly Union dues. When an Attendant does not receive any pay for an entire month, no deduction will be made to cover that pay period from future earnings. If an Attendant is in a non-pay status during only part of a pay period, and if the wages and salaries are not sufficient to cover the entire dues deduction, no deduction will be made. Withholdings and deductions such as Social Security and federal and state income taxes required by law will have priority over Union dues.

If the Vendor over-withholds an amount from an Attendant's wages and salaries and remits the same to the Union, the Union agrees to immediately refund such overpayment to the Attendant upon notification from the Vendor.

The Union shall indemnify, defend, and hold the Vendor harmless against any claim, demand, suit or liability arising from any action taken by the Vendor in complying with this Section.

Any Attendant who has previously submitted a written authorization for the voluntary deduction of membership dues to the Union may revoke the authorization during the month of July each calendar year. This revocation of dues deduction shall be initiated by the Attendant filing a written statement, withdrawing the authorization, to the Union. The Union will notify the Vendor of such revocation. If an Attendant resigns or is dismissed from employment, the deductions will cease the effective month of the action.

### **Voluntary Deductions**

A Vendor shall deduct voluntary contributions to an authorized Union fund or committee from an Attendant's payment for services (paycheck) upon receipt of proper authorization made by the Attendant for such deductions from the Attendant or the Union. Deductions to such a fund or committee may be made in any amount specified by an individual Attendant. Remittance of such contributions shall be made payable to:

### **Caregiver Action for Reform and Education (CARE)**

and shall be mailed to:

3230 Emerald Lane, Suite 300  
Jefferson City, Missouri 65109

Before there is a payroll deduction for voluntary contributions from an Attendant, the Attendant's earnings must be regularly sufficient after other legal and required deductions, including monthly Union dues, to cover the amount of the voluntary contributions. When an Attendant does not receive any pay for an entire month, no deduction for voluntary contributions will be made to cover that pay period from future earnings. If an Attendant is in a

non-pay status during only part of a pay period, and if the wages and salaries are not sufficient to cover the entire deduction for voluntary contributions, no deduction will be made. Withholdings and deductions such as Social Security and federal and state income taxes required by law will have priority over voluntary contributions.

If the Vendor over-withholds an amount from an Attendant's wages and salaries and remits the same to the Union, the Union shall immediately refund such overpayment to the Attendant upon notification from the Vendor.

The Union shall indemnify, defend, and hold the Vendor harmless against any claim, demand, suit or liability arising from any action taken by the Vendor in complying with this Section. The Vendor shall not be liable to the Union or the Attendant for any inadvertent error or omission made in good faith by the Vendor in connection with this Section.

Any Attendant who has previously submitted a written authorization for voluntary contributions to the Union may revoke the authorization at any time. This revocation of authorization for deductions for voluntary contributions shall be initiated by the Attendant filing a written statement, withdrawing the authorization, to the Union. The Union will notify the Vendor of such revocation. If an Attendant resigns or is dismissed from employment, the deductions for voluntary contributions will cease the effective month of the resignation or dismissal.

## **GRIEVANCES**

### **Point of Contact**

Each Vendor shall identify and report to the Council and to the Union a person they designate to serve as point of contact, to whom an Attendant or the Union can report issues and problems for discussion regarding possible resolution.

### **Definition**

A grievance is defined as any dispute or difference between a Vendor and an Attendant or the Union with respect to the meaning, interpretation or application of this Agreement. Claims that can be brought before EEOC or the Missouri Commission on Human Rights are not covered by this Agreement, and will follow the normal procedures allowed by law. Initiation of a grievance or appeal under any other procedure or in any other forum waives all rights to proceed under the grievance and arbitration procedures contained in this section of this Agreement.

### **Grievance Procedure**

#### **Preliminary Step**

Initially, the Attendant and/or a Union representative shall confer with the Vendor's designee to attempt to resolve the grievance informally.

### **1) Step One: Formal Grievance to Vendor**

The Union shall reduce the grievance to writing, including a statement of relevant facts surrounding the grievance, the section of the Agreement allegedly violated, and the remedy requested. The written grievance shall be presented to the Vendor's Executive Director or their designee within thirty (30) days of the occurrence of the alleged violation or within thirty (30) days of when the Union could reasonably have been aware of the occurrence giving rise to the grievance. The Union may submit the written grievance in person, by e-mail, by fax, or by mail. The Vendor shall respond in writing to the written grievance, addressing the facts alleged and asserted violations of the Agreement, within ten (10) business days of receiving the written grievance.

### **2) Step Two: Mediation**

- A. If the grievance is not resolved at Step One, the Union may,
1. within thirty (30) days of receipt of the written Step One response, or,
  2. in the absence of a written Step One response, within 30 days of the Union's submission of the grievance at Step One, submit the grievance for resolution before a mediator through the Federal Mediation and Conciliation Service (FMCS) or other mutually agreeable mediator.

### **3) Step Three: Arbitration**

A. If the grievance is not resolved at Step Two the Union may, within thirty (30) days of failing to achieve agreement at Step Two, advance the grievance to arbitration by filing a demand for arbitration with the Vendor.

B. The Union and the Vendor shall attempt to select an arbitrator by mutual agreement. If the Parties fail to agree upon an arbitrator, the Union and the Vendor will jointly select an arbitrator as herein provided. The Vendor and the Union may mutually agree on a qualified arbitrator. If the Union and the Vendor cannot agree, the arbitrator will be selected from arbitrator names provided by the Federal Mediation and Conciliation Service. Strikes of arbitrator names will be made from the list provided. The Party with the first strike will be determined by a coin toss.

C. The losing Party shall pay the costs of the arbitration, including the fees of the arbitrator and proceeding itself, but not including the costs of representation, advocacy, or witnesses of either Party. In cases of split decisions the fees and expenses of the arbitrator will be shared equally by the Parties.

D. The arbitrator shall have no power to add to, subtract from, or change any of the provisions of this Agreement. The award of the arbitrator shall be final and binding on the Parties, unless judicial review is sought.

### **NON DISCRIMINATION**

The Union, the Council and Vendors shall implement a policy of nondiscrimination as provided in this section. The Union, the Council and Vendors shall not discriminate with respect to wages, hours, or terms and conditions of employment as provided for in this Agreement on the basis of race, color, physical and/or mental disability, marital status, national origin,

ancestry, gender identity, sex, sexual orientation, age, political belief, faith, veterans status, citizenship status, union membership and activities and in keeping with applicable federal or state law.

This Article shall not be construed as otherwise limiting or impeding the statutory right of Consumers and prospective Consumers to select, hire, supervise the work of, and terminate any Attendant providing services to them; nor shall it be interpreted so as to prevent a Vendor from making referrals on the basis of bona fide job-related skills (e.g. language fluency or the physical ability to lift and transfer a Consumer) or legitimate Consumer preferences such as gender.

## **CONSUMER RIGHTS**

### **Consumer Rights**

This Agreement does not in any way diminish the Consumers' undisputed rights, including the selection, training, supervision and termination of Attendants.

The Missouri Home and Community Based Services Manual (published by the Division of Senior and Disability Services of the Missouri Department of Health and Senior Services) states that "the participant, and anyone asked by the participant, may be involved in the assessment process." (Person Centered Care Planning and Maintenance section, March 2013 provisions, page 1). Therefore, when a Consumer is assessed by the State for services, the Consumer should be able to have a representative, a relative, an Attendant or any other person or persons present that the Consumer designates. The Missouri Home and Community Based Services Manual further provides that Consumers who appeal a decision of the Department of Health and Senior Services, Division of Senior and Disability Services via the Adverse Action and Appeal and Hearing Processes may authorize someone to be their "Authorized Representative", subject to program rules. (Adverse Actions section, October 2013 provisions, page 1; and Appeals and Hearing Process section, April 2014 provisions, page 1). Vendor representatives should provide information to the Consumer's designated Authorized Representative, in accordance with the Consumer's wishes and program rules.

A Consumer's preference or choice to utilize a particular Attendant should be respected and supported by the Vendor whenever possible, and to the greatest extent possible, so long as the Attendant is eligible to provide services to the Consumer. A Vendor should attempt to work with the Consumer and Attendant to address issues as expeditiously as possible so as not to threaten either the Consumer's continuity of services or the Attendant's continuity of income. If a Vendor becomes aware that an Attendant is no longer able to or prohibited by law from being an Attendant the Vendor should provide written notice of those circumstances to the Consumer and Attendant. A Vendor should afford the Union an opportunity to assist in dispute resolution, if desired by the Consumer and the Attendant.

## **LABOR- MANAGEMENT COMMITTEE**

### **Labor-Management**

The Council and the Union agree to the establishment of a labor-management committee to facilitate communication between the Parties and to promote a climate of constructive labor relations. The committee shall determine the agenda and schedule for its meetings. The committee shall consist of up to four (4) representatives designated by the Union, and up to four (4) representatives of the Council. Other resource persons may be included by either Party with notice to the other.

The committee shall meet three (3) times each calendar year, or more frequently if mutually agreed to between the Parties, at mutually acceptable dates and times.

The topics for such meetings may include, but not be limited to, mutual respect, administrative issues affecting payment to Attendants, health and safety issues, the referral directory, Attendant work requirements as they relate to state and federal program requirements, and best practices for Attendant work and workforce management. The labor-management committee shall also give priority consideration to training and education topics including, but not limited to:

- Training needs
- Current training opportunities for Attendants and Consumers
- Training programs and models in other states
- Skill development for Attendants that could improve consumer services
- Resources that may be available for purposes of service improvement through workforce training

The goal of training is to promote the best possible service to Consumers within the context of consumer direction. Any training will support and not undermine consumer direction.

### **No Strike/No Lockout**

During the term of this Agreement, the Union, its members and representatives shall not engage in, authorize, sanction or support any strike, slowdown or other stoppage of work by members of the bargaining unit; nor shall the Council during the term of this Agreement engage in any lockout.

## **Economic Articles**

### **Attendant Wage Range**

Pursuant to Section 208.859(8), RSMo the Council recommends the following. Consistent with the Consumer Directed model, the Consumer should be responsible for setting the wage for Personal Care Attendants. Therefore, the Consumer, in his or her sole discretion, shall set the wage for the Personal Care Attendant at an amount within the wage range of \$8.50 to \$10.15 an hour before taxes, and the Vendor shall accept this rate. However, the Vendor and Consumer may set a wage rate above the wage range by mutual agreement. Further an Attendant who makes an amount greater than \$10.15 an hour at the date of



implementation shall not have his or her wage rate reduced due to this Agreement. In no event shall the wage be set below \$8.50 an hour before taxes. When setting the wage rate, the Consumer, as the employer may consider any job related factors, including but not limited to:

- Relevant experience including years of service
- Applicable education, training and certifications
- Past performance and level of Consumer satisfaction
- Level of care needs of the Consumer

When setting the wage rate, the Consumer shall convey to the Vendor the wage rate on a standardized form and is encouraged to share with the Vendor the rationale used to set the wage rate.

### **Attendant Pay Under the Independent Living Waiver**

As provided in the May 2, 2014 DSS/MoHealthNet Provider Bulletin (Volume 36 Number 26) effective July 1, 2014, the waiver Personal Care Attendant's reimbursement rate in the Independent Living Waiver (ILW) will change to \$3.57 per 15 minute unit (or \$14.28 an hour). Under Missouri's ILW, Vendors must ensure all funds paid for the ILW Personal Care Attendant are used to pay the Personal Care Attendant's wages and all employment related taxes and insurance. Payment for administrative functions will be separated from direct care service payment rates.

The Council supports funding for the waiver Personal Care Attendant's reimbursement rate in the ILW in subsequent years at rates that reflect a fair wage for Attendants and all employment related taxes and insurance. [MO Independent Living (0346.RO3.00) accessed via <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Waivers.html>]

### **Cooperative Program to Provide NEMT Information to Consumers and Attendants**

Subject to available resources for such purpose, the Council shall develop a fact sheet on Non-Emergency Medical Transportation (NEMT) for use by the Vendors to inform Consumers and Attendants of the availability of this program and how Consumers can access it. The Council shall consult with the Union concerning the fact sheet's contents which shall include but not be limited to the fact that eligible Consumers may be able to select "Gas Reimbursement" for Attendants providing transportation under the NEMT direct service program. Vendors shall make copies of the NEMT fact sheet, and shall distribute it to all Attendants. For those Attendants who receive routine communications from a Vendor via email, Vendors may distribute it by email. If resources are not available to the Council, the Council and Union will encourage the relevant state agencies to develop such a fact sheet.

### **Reimbursing an Attendant for Time Spent Driving to and from Shopping and Errands; Compensating the Attendant for the Cost of Gas**

The Union and the Council agree in principle that for Consumers to access the services that they need in the community, Consumers' person centered care plans should include realistic time that will be spent—allowing for distance that will be driven in an Attendant's

automobile—for necessary shopping and errands. The Consumer may request additional time for essential transportation in the Consumer's Plan of Care, as needed. Unless it is eligible for reimbursement under the Consumer's Plan of Care, Vendors will not compensate Attendants for gasoline that the Attendant uses when driving a Consumer for approved shopping and errands. Attendants will be compensated both for time worked and for gasoline used for errands and shopping if identified as necessary and as eligible for reimbursement under the Consumer's Plan of Care.

**Reimbursing an Attendant through CDS for Time Spent Taking a Consumer to and from a Medicaid-Covered Medical Appointment, in addition to the Reimbursement for Gasoline through NEMT**

Transportation needs for Medicaid – covered medical appointments are typically covered under the MoHealthNet Division's Non-Emergency Medical Transportation (NEMT) program. However, not all Medicaid beneficiaries are eligible for NEMT – the State's NEMT broker will be able to clarify if the CDS recipient is eligible for NEMT. A Personal Care Attendant will only receive payment under the Personal Care program for transporting a CDS participant to and from medical appointments if it is eligible for reimbursement under the Consumer's Plan of Care. Gas costs for transportation to and from a Medicaid-covered medical appointment may be covered under the NEMT program. If a Consumer is eligible for NEMT, a Personal Care Attendant who provides transportation to the Consumer under the NEMT program in his or her personal vehicle may be eligible for "Gas Reimbursement." Such "Gas Reimbursement," however, shall not be considered payment for the time spent by the Attendant transporting and assisting the Consumer during such trips. Attendants shall be paid for time worked that is eligible for reimbursement under the Consumer's Plan of Care, including (if eligible) time driving Consumers.

**Reimbursing an Attendant for Assistance Provided during an Eligible Medical Appointment**

Attendants who accompany Consumers to a Medicaid-covered appointment in accordance with a Plan of Care shall be paid for all time worked that is eligible for reimbursement under the Consumer's Plan of Care. The Union and the Council agree in principle that Consumers' person centered care plans should include realistic time that will be spent assisting the Consumer during the medical appointment.

**Holiday Pay**

Consistent with Section 208.859(8), RSMo, an Attendant shall receive an additional \$3 per hour above the Attendant's regular base rate of pay for work on the following holidays: First day of January, New Year's Day; third Monday in January, Martin Luther King Jr. Day; last Monday in May, Memorial Day; fourth day of July, Independence Day; first Monday in September, Labor Day; fourth Thursday in November, Thanksgiving Day; and twenty-fifth day of December, Christmas Day.

## **Hours Appeal Process**

Applicants for personal care assistance services and Consumers receiving such services are entitled to a hearing pursuant to Section 208.930.9, RSMo, with the Department of Social Services if the type or amount of services is set at a level less than the Consumer believes is necessary, if disputes arise after preparation of the personal care assistance plan concerning the provision of such services, or if services are discontinued. Services shall continue during the appeal process and for so long as the Vendor receives payment for such services, as allowed by law.<sup>i</sup>

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<sup>1</sup> 208.930. Consumer-directed personal care assistance services, reimbursement for through eligible vendors--eligibility requirements--documentation--service plan required--premiums, amount--annual reevaluation--denial of benefits, procedure--expiration date.

9. (1) Applicants for personal care assistance services and consumers receiving such services pursuant to this section are entitled to a hearing with the department of social services if eligibility for personal care assistance services is denied, if the type or amount of services is set at a level less than the consumer believes is necessary, if disputes arise after preparation of the personal care assistance plan concerning the provision of such services, or if services are discontinued as provided in section 208.924. Services provided under the provisions of this section shall continue during the appeal process.

## **Appropriations**

The Council is a type III agency within the Missouri Department of Health and Senior Services, as defined by Section 1.7(c) of the Missouri Reorganization Act of 1974 (Revised Statutes of Missouri, Appendix B). Supervision by the Department of Health and Senior Services extends only to submission of the Council's budget as part of the Department's budget, and to approve reports of the Council prior to printing and distribution. Section 208.856.1, RSMo, provides in relevant part that "Supervision [of the Council] by the department shall not extend to matters relating to policies, regulatory functions or other matters specifically delegated to the Council by sections 208.850 to 208.871 and the director of the department or any employee of the department, either directly or indirectly, shall not participate or interfere with the activities of the Council in any manner not specifically provided by law."

In light of applicable law, the duties and obligations accepted by the Council pursuant to this Agreement are duties and obligations of the Council and the extent of any involvement by the Department of Health and Senior Services is defined by Sections 208.862.5, RSMo, mandating cooperation in the implementation of any agreements reached by the Council and any representative of Personal Care Attendants, and Section 208.856.2(2), RSMo, which provides that one member of the Council shall be a representative of the Missouri Department of Health and Senior Services.

Provisions of this Agreement are subject to the Missouri Constitution and applicable Missouri statutes. Any expenditures that may be required in the implementation of this Agreement are subject to availability of funding from federal, state or other sources that may be appropriated by the Missouri General Assembly.

The Council may solicit and accept for use any grant of money, services or property from the federal government, the state, or any political subdivision or agency thereof, including federal matching funds under Title XIX of the federal Social Security Act, and do all things necessary to cooperate with the federal government, the state, or any political subdivision or agency thereof in making an application for any grant.

### **Savings/Severability**

In the event that any provision of this Contract is at any time declared invalid by any court of competent jurisdiction, such action shall not invalidate the entire Agreement, it being the express intent of the Parties that all other provisions, not so affected, shall remain in full force and effect. The invalidated provision shall be subject to renegotiation by the Parties within 45 days of either Party's request.

In the event of the passage of a new federal or state law or regulation having the force or effect of law, each Party may notify the other and request a meeting to discuss the impact of the statutory or regulatory change upon the terms of this contract. In the event the Parties agree the contract is impacted by the statutory or regulatory change, the Parties may renegotiate the affected provisions of the contract within 45 days of either Party's request for renegotiation.

### **Complete Agreement**

This Agreement constitutes the complete and entire agreement between the Parties, and concludes collective bargaining between the Parties for its terms. The Council and Union, for the duration of this Agreement, each waive the right and each agrees that the other shall not be obligated to bargain with respect to any subject matter referred to or covered in this Agreement. The Parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter allowed by law, and that the understanding and agreement arrived at by the Parties after the exercise of that opportunity are set forth in this Agreement.

### **Production of Agreement**

The Union shall bear the costs of producing and printing this Agreement in sufficient quantities for distribution to the members of the bargaining unit, and of translating it into Spanish.

In addition to the actual text of the Agreement and by mutual agreement of the Parties, the printed copy of the Agreement may contain introductory statements, highlights, or graphics included for the purposes of making the Agreement easier to understand and in order to provide the information most important to home care workers (such as their wage scales, benefits, and rights) in an easily-accessible, user-friendly format. Such introductory statements, highlights, or graphics shall not be considered or construed to, in any way, amplify, reduce or modify in any way the express terms of this Agreement. This Agreement shall be made available via the Council website, if any.

Regarding the production of the Agreement in Spanish and the inclusion of introductory statements, highlights, or graphics, the Parties agree that all disputes regarding the interpretation or application of this Agreement shall be determined based solely on the original English-language Agreement signed by the Parties, and not upon any other language version or upon any introductory statements, highlights, or graphics.

**Duty to Bargain**

Nothing contained in this Agreement shall be construed as to diminish the obligation of the Parties to discuss and/or negotiate over those subjects appropriate under the law and to the extent that the Council and Vendors have lawful control over those subjects. This specifically includes the wages, benefits, hours and terms and conditions of employment of Attendants in the bargaining unit.

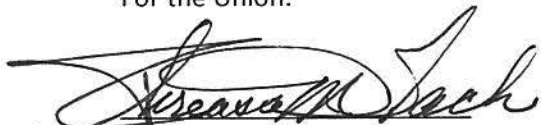
**Term of Agreement**


This Agreement shall take effect upon signature of the Parties and shall run for a period of thirty (30) months. If a successor Agreement has not been reached upon the expiration of this Agreement, the Agreement will continue in effect until a successor Agreement is finalized.

## Signatures

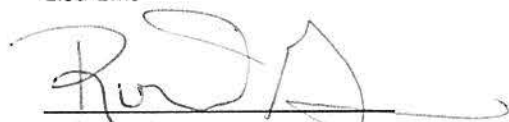
In witness whereof, the parties hereto have executed this Labor Contract this 10<sup>th</sup> day of December, 2014.

For the Union:

  
Threasa Bach

  
Linda Carter

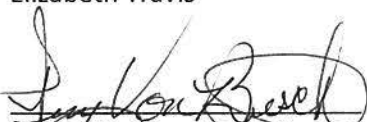
  
Lisa Ellis

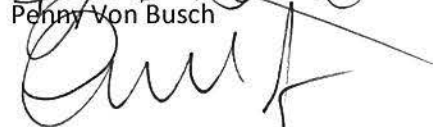
  
Robert Grissom

  
Karen Harlan

  
Elinor Simmons

  
Elizabeth Travis

  
Penny Von Busch

  
Lenny Jones

  
Jeffrey Mazur, Chief Negotiator

### Signatures

In witness whereof, the parties hereto have executed this Labor Contract this 9th day of January, 2015.

For the Council:

Kathy Alexander  
Kathy Alexander

Jan 9, 2015  
Date

RECEIVED  
2015 JAN 16 AM 9:01  
JEFFERSON CITY, MO

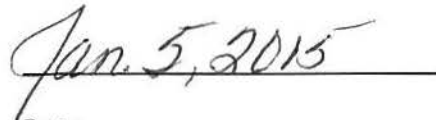
## Signatures

In witness whereof, the parties hereto have executed this Labor Contract this 5th day of January, 2015.

For the Council:

A handwritten signature in cursive script, reading "Edna B. McDaniel", written over a horizontal line.

Edna B. McDaniel

A handwritten date "Jan. 5, 2015" written in cursive script over a horizontal line.

Date

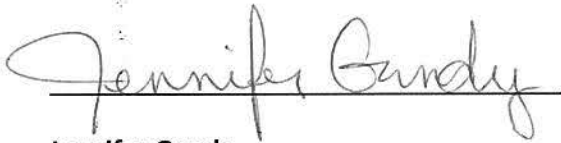
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JAN 9 2015  
CITY OF ALBUQUERQUE



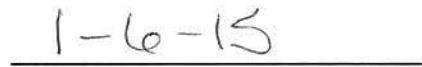
### Signatures

In witness whereof, the parties hereto have executed this Labor Contract this 6<sup>th</sup> day of January, 2015.

For the Council:

A handwritten signature in cursive script that reads "Jennifer Gundy". The signature is written over a horizontal line.

**Jennifer Gundy**

A handwritten date "1-6-15" written in a simple, blocky font. The date is written over a horizontal line.

**Date**

## Signatures

In witness whereof, the parties hereto have executed this Labor Contract this 18 day of January, 2015.

For the Council:

Frank J. Meyer  
Frank J. Meyer

1/18/15  
Date

RECEIVED  
JAN 20 2015  
13

**Signatures**

In witness whereof, the parties hereto have executed this Labor Contract this 5<sup>th</sup> day of January, 2015.

**For the Council:**

Nikki Loethen

**Nikki Loethen**

1/5/15

**Date**

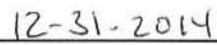
### Signatures

In witness whereof, the parties hereto have executed this Labor Contract this \_\_\_\_\_ day of January, 2015.

For the Council:

A handwritten signature in cursive script, reading "Todd Mayfield", is written over a horizontal line.

**Todd Mayfield**

A handwritten date "12-31-2014" is written over a horizontal line.

**Date**